

AMENDED IN SENATE APRIL 22, 2009

AMENDED IN SENATE APRIL 20, 2009

AMENDED IN SENATE APRIL 2, 2009

**SENATE BILL**

**No. 431**

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**Introduced by ~~Senator Benoit~~ *Senators Benoit and Leno***

February 26, 2009

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An act to amend Section 1203.9 of the Penal Code, relating to probation.

LEGISLATIVE COUNSEL'S DIGEST

SB 431, as amended, Benoit. Probation: transfers.

Existing law provides that whenever any person is released upon probation, the case may be transferred to any court of the same rank in any other county in which the person resides permanently, provided that the court of the receiving county shall first be given an opportunity to determine whether the person does reside in and has stated the intention to remain in that county for the duration of probation. Existing law provides that if the court finds that the person does not reside in or has not stated an intention to remain in that county for the duration of probation, it may refuse to accept the transfer.

This bill would provide that the transfers would be mandatory, unless, in certain cases, ~~the receiving court makes~~ *there is* a determination on the record that the transfer would be inappropriate, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1203.9 of the Penal Code is amended to  
2 read:

3 1203.9. (a) Whenever any person is released upon probation,  
4 the case shall be transferred to any court of the same rank in any  
5 other county in which the person resides permanently, meaning  
6 *with the stated intention to remain for the duration of probation,*  
7 *unless there is a determination on the record that the transfer*  
8 *would be inappropriate*; provided that the court of the receiving  
9 county shall first be given an opportunity to determine whether  
10 the person does reside in and has stated the intention to remain in  
11 that county for the duration of probation. If the court finds that the  
12 person does not reside in or has not stated an intention to remain  
13 in that county for the duration of probation, the court may refuse  
14 to accept the transfer. The court and the probation department shall  
15 give the matter of investigating those transfers precedence over  
16 all actions or proceedings therein, except actions or proceedings  
17 to which special precedence is given by law, to the end that all  
18 those transfers shall be completed expeditiously.

19 (b) If the court of the receiving county finds that the person does  
20 permanently reside in or has permanently moved to the county,  
21 the court shall accept the entire jurisdiction over the case.

22 (c) Whenever a person is granted probation under Section  
23 1210.1, the sentencing court shall transfer jurisdiction of the entire  
24 case, upon a finding by the receiving court of the person's  
25 permanent residency in the receiving county, unless there is a  
26 determination on the record that the transfer would be  
27 inappropriate.

28 (d) The order of transfer shall contain an order committing the  
29 probationer to the care and custody of the probation officer of the  
30 receiving county and an order for reimbursement of reasonable  
31 costs for processing the transfer to be paid to the sending county  
32 in accordance with Section 1203.1b. A copy of the orders and  
33 probation reports shall be transmitted to the court and probation  
34 officer of the receiving county within two weeks of the finding by  
35 that county that the person does permanently reside in or has  
36 permanently moved to that county, and thereafter the receiving  
37 court shall have entire jurisdiction over the case, with the like

1 power to again request transfer of the case whenever it seems  
2 proper.

3 (e) The Judicial Council shall adopt rules providing factors for  
4 the court's consideration when determining the appropriateness  
5 of a transfer, including, but not limited to, the following:

6 (1) Permanency of residence of the offender.

7 (2) Local programs available for the offender.

8 (3) Restitution orders and victim issues.

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